

**COUNCIL
13 September 2011**

Report of the Solicitor to the Council and Monitoring Officer

**REGULATION OF INVESTIGATORY POWERS ACT 2000
OFFICE OF SURVEILLANCE COMMISSIONERS INSPECTION**

1. PURPOSE

- 1.1 To inform members of the outcome of the visit from the Office of Surveillance Commissioner on 18 July 2011.
- 1.2 To advise Members of proposed changes to the RIPA Policy arising therefrom

RECOMMENDATIONS

- 1. That Members note the outcome arising from the visit by the Office of Surveillance Commissioner.**
- 2. That Members approve the changes to the RIPA Policy.**

3. RESOURCE IMPLICATIONS

- 3.1 None

4. LEGAL AND STATUTORY IMPLICATIONS

4.1 The recording of applications, authorisations, renewals and cancellations of investigations using covert surveillance techniques or involving the acquisition of communications data is covered by the Regulation of Investigatory Powers Act 2000.

4.2 The Regulation of Investigatory Powers Act was introduced to regulate existing surveillance and investigations in order to meet the requirements of Article 8 of the Human Rights Act. Article 8 states: Everyone has the right for his private and family life. His home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4.3 RIPA investigations are authorised for the prevention or detection of crime or the prevention of disorder.

4.4 There are no risk management nor Health and Safety implications.

5. BACKGROUND INFORMATION

5.1 The Council has a number of statutory functions that involve officers investigating the conduct of others with a view to bringing legal action against them. These functions include investigating anti-social behaviour, fly tipping, noise nuisance control, planning (contraventions), benefit fraud, licensing and food safety legislation.

5.2 Whilst the majority of investigations are carried out openly, some investigations must be carried out using covert surveillance techniques or involve the acquisition of communications data. Communications data is information about the times of calls or internet use and the location and identity of the callers but not the content of the calls or the details of the websites viewed.

5.3 The Regulation of Investigatory Powers Act 2000 regulates the authorisation and monitoring of these investigations to safeguard the public from unwarranted intrusion of privacy. There has been recent media interest in the use of covert surveillance and acquisition of communications data by local authorities. Since January 2010 the Council has received five Freedom of Information Act requests about its use of these powers. The investigations carried out have been necessary, proportionate and in accordance with the law.

5.4 The Solicitor to the Council and Monitoring Officer is the Senior Responsible Officer (SRO) responsible for the integrity of the process and for ensuring that the Authorised Officers have received appropriate training. The SRO also maintains a central register of all applications and authorisations, reviews and cancellations of authorisations relating to directed surveillance under RIPA.

5.5 The Authority has four Authorising Officers to deal with applications under RIPA. The Authorising Officers are:

Tony Goodwin :- Chief Executive

John Wheatley :- Deputy Chief Executive

Andrew Barratt:- Deputy Director Assets and Environment

Rob Mitchell:- Deputy Director Communities, Planning & Partnerships

5.6 The Council is subject to regular inspections by the Office of the Surveillance Commissioner (OSC) who report on our policy, procedures, documentation and training. An inspection was carried out on 18 July 2011. The Commissioner reported that much work has been done since July 2008 by the authority to meet the previous OSC recommendations:- "The SRO has approached her role with purpose, applications and authorisations are RIPA compliant and there is an established practice whereby all relevant documentation is frequently reviewed. Policy and training requirements are now firmly established, supplemented by a small cadre of trained Authorised Officers. The personal engagement of the Chief Executive and that of other Senior Authorising Officers founds confidence that the recommended improvements will be made in future authorisations though it was not possible to judge this as there have been no applications since training was provided in October 2010. "

5.7 The Commissioner has recommended

(1) that the RIPA policy include parts of the guidance provided within the Covert Surveillance and Property Interference Code of Practice. This is attached at Appendix 1

(2) that the Central Record of Authorisations contain additional information e.g. details where an Authorising Officer is involved in the surveillance activity.

- (3) that the Senior Responsible Officer provide refresher training for staff involved in the RIPA process and
- (4) that an action plan incorporating the recommendations be submitted to the OSC by 3 October 2011. This is attached at Appendix 2

REPORT AUTHOR

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LIST OF BACKGROUND PAPERS

Regulation of Investigatory Powers Act 2000
The Covert Surveillance and Property Interference Code of Practice

APPENDICES

- Appendix 1 - The revised RIPA policy showing the recommended inclusions in italic script
- Appendix 2 - The Action Plan incorporating the recommendations of the OSC

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